

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

IN RE:)
)
JAMES HILTON TAYLOR,) CHAPTER 13 BANKRUPTCY
) CASE NO. 94-50394
)
DEBTOR)

ORDER

_____The Debtor filed an objection to claims number 4, 5 and 6, filed by Personal Finance. The Court's notice of February 10, 1995, advised creditors and parties at interest "If claimant wishes to oppose the objection, it should notify the Court in writing, and serve a copy on Clyde W. Royals [the debtor's attorney] no later than March 17, 1995, and urge any objection at a hearing which will be held for such purpose on: March 22, 1995...." The notice further provides "Failure to respond will result in the entry of an order supporting the Debtor's position, and the hearing removed from the calendar."

At the hearing it appeared that Personal Finance withdrew claim number 5. The Debtor's attorney failed to appear at the hearing. The Court was in error in announcing that the objection would be denied based upon a lack of prosecution of the objection. It is clear from the notice that the objection should be sustained in the absence of any response from the

claimant. It is also clear from the presentation of the Chapter 13 trustee that certain adjustments to the claims were made and that the matter may have been intended to be presented as one which was resolved between the parties. Without an appearance from the Debtor's attorney, there was no way to determine whether the objection was supposed to be sustained or denied. The Debtor's attorney did submit a proposed order which provided for claim number 5 to be disallowed. The proposed order is silent as to claims number 4 and 6. It would be inequitable to sustain the Debtor's objection if there was an agreement to some other disposition. Likewise, it would be inequitable to deny the Debtor's objection when there is no record of any response by claimants.

Accordingly, it is hereby

ORDERED that the Debtor's claim objection as to claims number 4 and 6 is hereby denied; and it is hereby further

ORDERED that the Debtor's objection to claim number 5 is sustained based upon the withdrawal of that claim by the movant; and it is hereby further

ORDERED that the parties shall have a period of twenty (20) days from today's date to request a hearing for the Court to reconsider the provisions of this order or in the alternative, to file a consent order between the Debtor and creditor providing for a disposition other than the one which is specified by the terms of this order.

SO ORDERED this _____ day of March, 1995.

JAMES D. WALKER, JR., Judge
United States Bankruptcy Court

CERTIFICATE OF SERVICE

I, Cheryl L. Spilman, certify that a copy of the attached
and foregoing was mailed to the following:

Clyde W. Royals
Attorney At Law
239 South Peterson Avenue
Douglas, GA 31533

Personal Finance Service
104 S. Jefferson Street
Nashville, GA 31639

James Hilton Taylor
P. O. Box 341
Willacoochee, GA 31650

Sylvia Ford Brown
Chapter 13 Trustee
P. O. Box 10556
Savannah, GA 31412

This _____ day of March, 1995.

Cheryl L. Spilman
Deputy Clerk
United States Bankruptcy Court